

**CHIROPRACTIC EXAMINING BOARD
MINUTES
April 27, 2006**

PRESENT: Steven Conway, Char Glocke, Wendy Henrichs,
James Koshick, Steven Silverman, Mania Moore

EXCUSED: None

STAFF PRESENT: Jeff Scanlan, Director of Health Service Professions; Dennis Schuh,
Legal Counsel, Gina York, Bureau Assistant, and Division of
Enforcement and other staff

GUESTS: Rod Lefler, DC, WCA; Joe Bradley, DC, WCA; Steve Douglas, DC,
WCA; Marna Moolla, DC, WCA; Marshall Lysime, DC, WCA;
Wendy Varish, DC, WCA; Sherry Walker, DC, WCA; Russell
Leonard, WCA; Michael McMahn, DC, WCA; Randall Adams, DC,
WCA; John Church, DC, WCA; Jeremy Levin, WI Medical Society;
Susan Nitzke, UW-Madison; Lloyd Clark, WI Medical Society;
Jason Johns, WPTA/WDA

CALL TO ORDER

Steven Silverman, Chair, called the meeting to order at 8:01 a.m. A quorum of six members was present.

APPROVAL OF AGENDA

Additions to the Agenda:

- Open Session: Under Presentation of Stipulations Received After the Mailing of the Agenda - Add Name Robert Strawn, DC
- Open Session: After Item J. – Preceptor Approvals Received After the Printing of the Agenda - Add Name Patrick Andersen, DC
- Closed Session: Under Deliberation of Stipulations Received After the Mailing of the Agenda - Add Name Robert Strawn, DC

MOTION: Mania Moore moved, seconded by Char Glocke, to approve the agenda as amended. Motion carried unanimously.

PUBLIC HEARING: CR 06-006, ORDER TO AMEND CHIR 6.02 (6) RELATING TO ADEQUATE EDUCATION PRIOR TO APPLICATION OF NEW THERAPIES AND TREATMENT MODALITIES

A public hearing at 8:15 a.m. regarding rule changes to CR 06-006, order to amend 6.02 relating to adequate education prior to application of new therapies and treatment modalities. There was no testimony to these rules at today's hearing, Upon conclusion of the public hearing the hearing tape was given to Pamela Haack, Office of Legal Services.

PUBLIC HEARING: CR 06-007, ORDER TO REPEAL CHIR 5.01 (1)(C) & (D) AND 5.02(3); TO RENUMBER AND AMEND CHIR 5.01(3); TO CREATE CHIR 5.01 (3)(B) TO (E), 5.02(1)(I), (4)(A)8., AND (7) RELATING TO CONTINUING EDUCATION (C) CREDIT AND APPROVAL OF CE PROGRAMS

A public hearing at 8:18 a.m. regarding rule changes to CR 06-007, order to repeal Chir 5.01(1)(c) & (d) and 5.02(3); to renumber and amend Chir 5.01(3); to create Chir 5.01 (3)(b) to (e), 5.02(1)(i), (4)(a)8 and (7) relating to continuing education (C) credit and approval of CE programs. There was one individual who provided testimony regarding these rules at today's hearing. Upon conclusion of the public hearing the hearing tape was given to Pamela Haack, Office of Legal Services.

ADMINISTRATIVE REPORT

Jeff Scanlan, Director of Health Service Professions, provided several DRL staff updates to the Board. Eric Callisto, Division Administrator for the Division of Enforcement has accepted the position of Executive Assistant with the Public Service Commission. His last day was March 31, 2006. Deputy Secretary Sandra Rowe accepted a position as Deputy Chief Legal Counsel with the Department of Health and Family Services. Sandy's last day with us was March 3, 2006. We are happy to announce the following additions to our staff. Martha Zydowsky has accepted the position of Management Services Division Administrator and began this past Monday, March 27, 2006. She came to us from the Department of Revenue. Jim Parker accepted the position as Budget Director and began last Monday, March 29, 2006 and also came to us from the Department of Revenue. On April 18, Governor Doyle appointed Barbara Wyatt Sibley as the new Deputy Secretary of the Department of Regulation and Licensing. Previously, Ms. Wyatt Sibley served as President and CEO of the YWCA of Greater Milwaukee.

APPROVAL OF MINUTES OF FEBRUARY 23, 2006

Amendments to the Minutes:

- Page 3: Under Proposed Rules Change Chir Rules 5.01 and 5.02 – In motion opposed James Koshick.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to approve the minutes of February 23, 2006 as amended. Motion carried unanimously.

REVIEW OF 2006 BOARD MEETING DATES FOR POSSIBLE AMENDMENT TO SCHEDULE

MOTION: Wendy Henrichs moved, seconded by Mania Moore, to amend the Board meeting date schedule to change the October 26, 2006 meeting to September 28, 2006. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

Jeanette Lytle presented two stipulations regarding Cynthia Mickelson, DC (04 CHI 064); and Steven Mickelson, DC (04 CHI 064) and will be deliberated on during closed session at today's meeting.

PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

Jeanette Lytle presented one stipulation which was received after the mailing of the agenda regarding Robert Strawn, D.C. at today's meeting.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES WITH DENNIS SCHUH

Dennis Schuh, Legal Counsel, reviewed the summary reports with the Board at today's meeting and was available to answer questions related to these reports. Currently, there were three cases before the ALJ and two have been upheld but one case regarding Gregory R. Daniels, D.C. will be discussed later in today's meeting.

STATUS REPORT ON RULES AND STATUTES WITH DENNIS SCHUH

CHIROPRACTIC EXAMINING BOARD

April 27, 2006 Minutes

Page 3 of 10

Dennis Schuh, Legal Counsel, reviewed all pending legislation with the Board at today's meeting.

**REVIEW OF SCOPE STATEMENT ISSUED MARCH 2004 REGARDING
QUALIFICATIONS OF CE INSTRUCTORS FOR WITHDRAWAL
OR BOARD ACTION**

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to withdraw the scope statement regarding CE instructors. Motion carried unanimously.

DISCUSSION REGARDING 2005 ASSEMBLY BILL 1039

Dennis Schuh, Legal Counsel, provided a brief update regarding Assembly Bill 1039 at today's meeting.

DISCUSSION REGARDING 2005 SB 394 RELATING TO NEEDLE EMG

Dennis Schuh, Legal Counsel, provided a brief update regarding Senate Bill 394 relating to needle EMG's at today's meeting.

**REVIEW PROPOSED RULE MAKING ORDER TO AMEND S. CHIR 4.05 (1)(D) AND
TO CREATE SS. CHIR 5.01 (1)(E) & (F), 6.02 (31) AND CHIR 12 RELATING TO
NUTRITIONAL COUNSELING CERTIFICATION**

MOTION: Wendy Henrichs moved, seconded by James Koshick, to amend Chir 12.05, under prohibited practice, sub (4) remove 12 months and replace with 24 months. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to amend Chir 12.02 (1) and (3) remove Board certification. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to amend Chir 12.02(2) to read CCE or approved by the Board. Motion carried unanimously.

- MOTION:** Wendy Henrichs moved, seconded by James Koshick, to amend Chir 12.02(3), to read CCE or approved by the Board. Motion carried unanimously.
- MOTION:** Wendy Henrichs moved, seconded by James Koshick, to amend Chir 12.02(1)(c) 1 and 3, delete or certification. Motion carried unanimously.
- MOTION:** Char Glocke moved, no seconded, to amend nutritional counseling rules and allow technology based non-classroom. Motion failed due to lack of a second.
- MOTION:** Wendy Henrichs moved, seconded by James Koshick, to designate James Koshick as the Board liaison to approve and move the rules forward in the rulemaking process once revisions are completed. Motion carried unanimously.

PRECEPTORS FOR APPROVALS

The following individuals were presented for approval as preceptors: Steven D. Bricher, DC; Lance R. Guerin, DC; Kevin A. Blau, DC; Kenneth D. Krimpelbein, DC; Dan P. Killian, DC; Marilyn Dragosh, DC; Patrick Andersen, DC; Andrew Van Roo, D.C. and Tim Smykal, DC.

- MOTION:** Char Glocke moved, seconded by Mania Moore, to approve Andrew Van Roo, D.C. as a preceptor. Abstained – Steven Conway and Steven Silverman/ Motion carried.
- MOTION:** Char Glocke moved, seconded by James Koshick, to approve the remainder of the preceptors as presented at the April 27, 2006 meeting. Motion carried unanimously.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

There was one preceptor Patrick Andersen, DC submitted after the printing of the agenda and was approved in the above motion.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

None.

**CONSULTING WITH LEGAL COUNSEL – GREGORY R. DANIELS D.C. VS
WISCONSIN CHIROPRACTIC EXAMINING BOARD, CIRCUIT COURT RULING;
ORDER REVERSING BOARD ACTION**

The Board consulted with Dennis Schuh, Legal Counsel, regarding the Gregory R. Daniels D.C. verses the Wisconsin Chiropractic Examining Board, the Circuit Court Ruling and the Order Reversing the Board's Action. Steven Conway was not present and did not participate in any deliberations at today's meeting. The Board took the following action.

MOTION: Mania Moore moved, seconded by Char Glocke, to not seek an appeal of the circuit court decision in the matter of Gregory R. Daniels ,D.C. Steven Conway did not participate during the deliberation or voting process. Abstained – Steven Conway. Motion carried.

VISITOR COMMENTS

None.

CONVENE TO CLOSED SESSION

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel to deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Mania Moore-yes; Wendy Henrichs-yes; Steven Silverman-yes; Char Glocke-yes; and James Koshick-yes.

Open Session recessed at 10:37 a.m.

RECONVENE TO OPEN SESSION

MOTION: Wendy Henrichs moved, seconded by Char Glocke Moore, to reconvene into open session at 2:44 p.m. Motion carried unanimously.

MONITORING

APPEARANCES BEFORE THE BOARD

LAROY REEK, DC

MOTION: Wendy Henrichs moved, seconded by James Koshick, to grant a stay of suspension upon the successful passage of the NBCE SPEC examination and to initiate an evaluation by an appropriate mental health professional approved by the DRL Monitor, for his anxiety and to continue follow up treatment recommendations. The stay of suspension would continue with the following stipulations: 1) respondent's colleague, Dr. John Haase, or another chiropractor acceptable to the Board, agree to monitor respondent in his practice of chiropractic; 2) respondent shall sign consent forms allowing the Department and its employees to communicate with Dr. Haase, or any other monitoring chiropractor, regarding his practice; 3) Dr. Haase shall submit weekly reports to the Department Monitor in which he evaluates Dr. Reek's competence in practice and the quality of this performance of the tasks and duties of chiropractic practice; 4) in the event that Dr. Haase's report identifies any deficiencies in practice that pose a material risk to patient safety, the stay shall be immediately revoked. The board delegates the authority to revoke the stay to the Department Monitor. The respondent has the right to seek board review of any action taken by the Department Monitor; 5) at the June 22, 2006 meeting of the Chiropractic Examining Board, or anytime thereafter, the respondent has the right to seek further modifications of this order, including by not limited to a termination of the suspension or a reduction in the frequency of work reports. Motion carried unanimously.

RICHARD GOLDE DC

MOTION: James Koshick moved, seconded by Steven Conway, to deny the request for reinstatement of licensure regarding Richard Golde, D.C.
Reason for Denial: Due to his approach to anger management is inadequate and lack of candor to the Board indicates inadequate rehabilitation. Motion carried unanimously.

REQUESTS FOR REINSTATEMENT OF LICENSURE

MICHAEL LABLANC, D.C.

MOTION: Steven Conway moved, seconded by James Koshick, to grant full reinstatement of licensure regarding Michael LaBlanc, D.C. Motion carried unanimously.

REQUESTS FOR MODIFICATION OF BOARD ORDER

CHRISTIAN ZEBRASKY DC

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to deny the request for a modification to the Board Order regarding Christian Zebrasky, D.C. Motion carried unanimously.

**DELIBERATION OF MONITORING ISSUES THAT MAY BE RECEIVED AFTER
MAILING OF AGENDA**

None.

STIPULATIONS

CYNTHIA MICKELSON, DC

MOTION: Wendy Henrichs moved, seconded by Mania Moore, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation, in the matter of Cynthia Mickelson, D.C., Case 04 CHI 064. Motion carried unanimously.

STEVEN MICKELSON, DC

MOTION: Wendy Henrichs moved, seconded by Mania Moore, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation, in the matter of Steven Mickelson, D.C., Case 04 CHI 064. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER
MAILING OF THE AGENDA**

ROBERT STRAWN, DC

MOTION: Char Glocke moved, seconded by Wendy Henrichs, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation, in the matter of Robert Strawn, D.C. , Case 04 CHI 039. Motion carried unanimously.

**DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED
AFTER MAILING OF AGENDA**

None.

DELIBERATION OF PROPOSED FINAL DECISION & ORDERS

GREGORY R. DANIELS,D.C.

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to adjourn this to the next board meeting and for Legal Counsel to prepare a variance in the matter of Gregory R. Daniels, D.C. Steven Conway did not participate during the deliberation or voting process. Abstained – Steven Conway. Motion carried.

**DELIBERATION OF PROPOSED FINAL DECISIONS & ORDERS THAT MAY BE
SIGNED AFTER MAILING OF THE AGENDA**

None.

**DELIBERATION OF PETITIONS FOR REHEARINGS RECEIVED AFTER THE
MAILING OF THE AGENDA**

None.

DIVISION OF ENFORCEMENT CASE STATUS REPORT

MOTION: Wendy Henrichs moved, seconded by Mania Moore, to close case **05 CHI 018** for no violation. Abstained – Steven Conway. Motion carried.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to close case **04 CHI 043** for P4. Abstained – Steven Conway. Motion carried.

MOTION: Char Glocke moved, seconded by James Koshick, to close case **04 CHI 040** for no violation. Abstained – Wendy Henrichs. Motion carried.

MOTION: James Koshick moved, seconded by Char Glocke, to close case **03 CHI 033** for no violation. Abstained – Steven Silverman. Motion carried.

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to close case **03 CHI 077** for no violation. Abstained – Steven Silverman. Motion carried.

APPLICATION REVIEWS

None.

OTHER BOARD BUSINESS

None.

ADJOURNMENT

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to adjourn the meeting at 2:56 p.m. Motion carried unanimously.